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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/612,141	07/07/2000	Alan T. Ruberg		7800
23879	7590	08/13/2004		
BRIAN M BERLINER, ESQ O'MELVENY & MYERS, LLP 400 SOUTH HOPE STREET LOS ANGELES, CA 90071-2899			EXAMINER LEZAK, ARRIENNE M	
			ART UNIT 2143	PAPER NUMBER

DATE MAILED: 08/13/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/612,141

Applicant(s)

RUBERG ET AL.

Examiner

Arrienne M. Lezak

Art Unit

2143

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 52-93 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 52-93 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date ____.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: ____.

DETAILED ACTION

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 9 June 2004 has been entered.
2. Examiner notes that Claims 1-51 have been previously cancelled. Examiner further notes that Claims 52, 54, 62-63, 65-67, 69-71, 82-83, 86, 88, 90 and 92-93 have been amended and no new claims have been added. Applicant's arguments with respect to all claims have been considered but are moot in view of the new ground(s) of rejection.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 52-93 are rejected under 35 U.S.C. 103(a) as being unpatentable over US Patent US 6,628,15 B1 to Lawrence in view of US Patent US 6,389,589 B1 to Mishra.

5. Regarding Claims 52, 53, 68, 69, 73, 74, 82, 87, 92 and 93, Lawrence discloses a system and method for device management in a grouped server system, comprising a plurality of servers operating in a group and a plurality of set top units, (with no built-in knowledge to directly control device(s) – per pending Claim 69), persistently coupled via an interconnect, each of said servers comprising a device manager, comprising said device managers brokering, (by determining and informing – per pending Claim 68), devices coupled to said set top units to at least one device and/or service directly and/or remotely, (Abstract; Fig. 1; Col. 2, lines 40-67; and Col. 3, lines 1-22). Examiner notes that Lawrence uses set top boxes which Examiner finds render Applicant's "thin client" or "desk top unit" obvious. Moreover, Examiner notes that the teaching of searching the Internet and installing a printer driver on a set top box renders obvious searching of the Internet and installing any type of driver, components and/or other software/hardware.

The Lawrence system and method further comprises a service creating a request to control a device, (obviously including keyboard, mouse, speaker, scanner or microphone devices – per pending Claim 93) on a set top unit from a device service on at least one of a first server and a second server, (wherein said request comprises desired device capabilities – per pending Claim 53), (Col. 17, lines 16-67 and Col. 18-20);

a first device manager in a first server transferring said request to a second device manager in a second server, said first device manager being coupled to said service, (per pending Claims 74 & 87), (Col. 17, lines 16-67 and Col. 18-20);

said second device manager allocating said device to said service;

said second device manager informing said first device manager of said allocation, (per pending Claims 68 & 73), (Col. 17, lines 16-67 and Col. 18-20); and

wherein said device service controls said device by implementing a complete device driver, (Col. 17, lines 16-67 and Col. 18-20).

6. Examiner notes that in obtaining, in response to a request for a printer driver, an appropriate printer driver from a network server residing on the Internet, it would be obvious for more than one network server to be searched for the appropriate driver, (as taught by Lawrence). However, Examiner further offers the combination of Lawrence in view of Mishra, wherein Mishra specifically discloses a class store schema, (Abstract), which facilitates the management and deployment of applications, components and services across a computer network wherein an object not available locally is searched for within various other class stores on the Internet, (Col. 1, lines 65-67 and Col. 2, lines 1-35). Examiner notes that it would have been obvious to one of ordinary skill in the art at the time of invention by Applicant to incorporate the Mishra class store schema into the Lawrence remote plug-and-play, as Lawrence teaches searching for drivers on network servers on the Internet, which servers would benefit from the customized administration and programmatic query/installation for specific components and packages as needed, (Mishra – Co. 2, lines 15-35). Thus, Claims 52, 53, 68, 69, 73, 74, 82, 87, 92 and 93 are found to be unpatentable in view of Lawrence alone, or in combination with Mishra.

7. Regarding Claims 54-56, 78-81 and 89-91, Lawrence in view of Mishra are relied upon for those teachings disclosed herein above. Lawrence in view of Mishra further

discloses a system and method for device management wherein the first server and second server operate in a group, further comprising: establishing a first optionally event-terminating communication path, (obviously comprising receipt of a group list comprising server information and transference of device reports and allocation requests for purposes of proper allocation), between said first device manager and said second device manager; and establishing an optionally event-specific, (obvious resetting of set top unit or failure of first device manager), and/or arbitrary second communication path between a set top unit and said second device manager, said device being coupled to said set top unit for purposes of device data transference, (Lawrence - Col. 17, lines 16-67 and Col. 18-20; Mishra – Col. 1, lines 65-67 and Col. 2, lines 1-35). Thus, Claims 54-56, 78-81 and 89-91 are found to be unpatentable under the combined teachings of Lawrence in view of Mishra.

8. Regarding Claims 57-61 and 83-85, Lawrence in view of Mishra are relied upon for those teachings disclosed herein above. Lawrence in view of Mishra further discloses a method for device management wherein a first device manager creates a first device list, (comprising device records for devices the first device manager manages), and a second device manager creates a second device list, (comprising device records for devices managed by the first device manager and peer device managers in the group server system), (Mishra – Col. 5, lines 23-67 & Col. 6, lines 1-24). Said group server system further disclosed as comprising a plurality of device managers and a plurality of desktop units coupled to an interconnect, further comprising identifying which device manager manages which device, (Lawrence - Col. 17, lines 16-

67 and Col. 18, lines 1-65; Mishra – Col. 1, lines 65-67 and Col. 2, lines 1-35). Examiner notes that it would have been obvious to have lists of available devices and device drivers within a class store schema, like Mishra, wherein packages are stored and cataloged. Thus, Claims 57-61 and 83-85 are found to be unpatentable under the combined teachings of Lawrence in view of Mishra.

9. Regarding Claims 62-67 and 88, Lawrence in view of Mishra are relied upon for those teachings disclosed herein above. Lawrence in view of Mishra further discloses a method for device management wherein the first device manager creates a finder, (a pattern of registered peripheral devices to be controlled by the device service – per pending Claims 62 & 88), comprising scoping rules from the service in accordance with the device request; searches the first device list coupled to the first device manager for a device matching the registered devices of the finder, (per pending Claim 63), (Mishra - Col. 1, lines 65-67 & Col. 2, lines 1-34); and storing the finder locally as in the first server, (per pending Claim 64), (Lawrence – Col. 19, lines 58-62 & Col. 20).

10. Lawrence further discloses the transferring of said request to a second device manager for creation of a request-specific second finder, (per pending Claim 65), searching the second device list coupled to the second device manager, and storing the second finder in the second server, (per pending Claims 66 & 67), (Lawrence – Col. 118, lines 7-65). Examiner notes that the teachings of Lawrence render the use of multiple memory devices within multiple servers obvious. Examiner further notes that since Lawrence teaches searching multiple network servers, and Mishra teaches a class store directory, the use of one or more finders for purposes of locating devices or

device drivers would have been an obvious form of searching said directories.

Moreover, the storage of said finders (and drivers) would have been obvious in view of Lawrence, which teaches the storage of the driver(s) in memory and within directories.

Thus, Claims 62-67 and 88 are found to be unpatentable under the combined teachings of Lawrence in view of Mishra.

11. Regarding Claims 70-72 and 86, Lawrence in view of Mishra are relied upon for those teachings disclosed herein above. Lawrence in view of Mishra further discloses a method for device management where in view of the teachings of Mishra, it would have been obvious for the grouped server system universal clock to time-stamp the desktop messages as they are generated on each server comparing and transferring requests as needed, (Mishra – Col. 11, lines 9-12). Thus, Claims 70-72 and 86 are found to be unpatentable under the combined teachings of Lawrence in view of Mishra.

12. Finally, regarding Claims 75-77, Lawrence in view of Mishra are relied upon for those teachings disclosed herein above. Lawrence in view of Mishra further discloses a method for device management wherein said first server comprises a device list, said first device list comprising a device record for said device, further comprising; transferring said device record to a second device manager in said second server; and said second device manager updating a second device list to include said device record; matching said request with said device record in said second device list; and determining said service manager that manages said device from said second device list, (Lawrence - Col. 17, lines 16-67; Col. 18, lines 1-65; -20; and Col. 20, lines 1-35; Mishra – Col. 1, lines 65-67 and Col. 2, lines 1-35). Examiner notes that it would have

been obvious to update directories in memory as needed within a system reliant upon the ability to located drivers, etc. as needed. Thus, Claims 75-77 are found to be unpatentable under the combined teachings of Lawrence in view of Mishra.

Conclusion

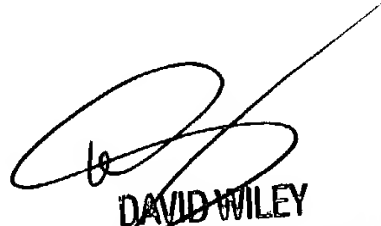
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Arrienne M. Lezak whose telephone number is (703)-305-0717. The examiner can normally be reached on M-F 8:30-4:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David A. Wiley can be reached on (703)-308-5221. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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